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Attorney for Defendant
ARTURO PACHECO

**IN THE UNITED STATES OF DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,
v.

ARTURO PACHECO,

Defendant

Case No.: 2:20-CR-00221-WBS

**FORMAL OBJECTIONS AND
MOTION TO CORRECT THE PRE-
SENTENCE REPORT**

Date: October 17, 2022

Time: 9:00 a.m.

Judge: Hon. William B. Shubb

Arturo Pacheco, by and through his attorney, David D. Fischer, hereby makes the below-stated objection to the Pre-Sentence Investigation Report (PSR) and moves the Court for an order to correct the report consistent with the defendant's objection

I. IN PARAGRAPH 40, THE DEFENDANT OBJECTS TO THE FIVE-LEVEL INCREASE FOR SERIOUS BODILY INJURY AS IT RELATES TO VICTIM C.C.'s INJURIES (PEPPER SPRAY INCIDENT) BECAUSE THE THREE-LEVEL ENHANCEMENT APPLIES INSTEAD.

The parties stipulated in the plea agreement that a three-level adjustment should apply to Victim C.C., the victim of the pepper spray incident (Plea Agreement, P.8).

1 Although it does not affect the total offense level because of grouping, the defense objects to the
2 finding of serious bodily injury, warranting a 5-level increase, where the parties agree that only
3 the bodily injury specific offense characteristic applies, warranting a 3-level increase. This
4 relates to Victim 1, C.C., the victim of the pepper spray incident. Paragraph 10 of the PSR
5 confirms that C.C. was medically evaluated and cleared of any damage to his eyes. Paragraph 14
6 details that C.C. was offered a decontamination shower, but he declined. Accordingly, the +3 for
7 bodily injury accurately captures this specific offense characteristic. The serious bodily injury
8 specific offense characteristic does not. Accordingly, the defendant requests the Court to
9 order the probation officer to correct the PSR.

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11 DATED: October 3, 2022

Respectfully submitted,

13 /S/ David D. Fischer
14 DAVID D. FISCHER
15 Attorney for Defendant
16 ARTURO PACHECO
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